

should not be maintained against any of the claims now presented. None of the claims now presented uses improper alternative expressions and so the metes and bounds of all claims now presented have been clearly established. Claim 17 which replaces claim 7 does not use the language "... their own weight" in describing how much water is contained in the composition. Thus all claims now presented are believed to be in full compliance with the requirements of 35 USC 112, second paragraph.

The Examiner has rejected all claims last presented as anticipated under 35 USC 102 and as obvious under 35 USC 103 in view of the cited prior art. The prior art references applied against the claims include U.S. Patent 5,308,627 to UMBDENSTOCK (B), U.S. Patent 5,895,652 to GIAMPAPA(D), U.S. Patent 5,578,307 to WUNDERLICH et al c), and U.S. Patent 5,132,113 to LUCA (A).

The Examiner argues that UMBDENSTOCK discloses compositions that contain an amino acid, namely, glutamic acid, and a plant extract, namely, Valerian root and that such compositions are anticipatory of original claims 1 through 5, 8 and 9. In col. 7, lines 8 and 13 of the reference glutamic acid and Valerian root are specified. Furthermore the reference discloses that the compositions are useful for reducing the craving of a number of addictive substances, including alcohol. See col. 3, lines 60 to 65. Thus the Examiner believes that original claims 1 through 5, 8, 9 and 13 are rendered obvious by this reference.

The Examiner further argues that original claims 1 through 4 and 8 through 13 are anticipated by GIAMPAPA which

discloses compositions that contain among other ingredients, amino acids and plant extracts. Note in col. 6 at the top of the reference that the amino acid may be taurine, N-acetyl-cysteine, and glutathione and on line 29 that the plant extract may be silymarin. Furthermore the ingredients listed in cols. 5 through 8 of the reference include aromas, trace elements, hormones, proteins, bioflavonoids and vitamins so the Examiner believes that most of the dependent claims are anticipated or at least rendered obvious by this reference. The utility for the compositions of this reference is the slowing down of the aging process. However, there is no specific mention of treating addiction to tobacco.

The Examiner then argues that claims 1 through 8 and 10 through 13 are anticipated by and rendered obvious by WUNDERLICH et al because the reference discloses compositions that contain a plant extract, an amino acid, a protein, and sorbitol. The compositions are disclosed as cosmetics.

Lastly the Examiner has applied LUCA against original claims 1 through 6, 8, 9 and 13 as anticipatory of the claims and as a basis for the obviousness of the claims. The LUCA compositions do contain a number of amino acids according to col. 6. Some of these amino acids include methionine, phenylalanine, and tryptophan which are among the amino acids specified in Applicant's presently claimed compositions.

Applicant has responded to these bases for rejection by submitting much narrower claims that relate more specifically to the examples in the present application. Applicant's claimed

compositions with specified amino acids and specified plant extracts in combination are neither disclosed nor suggested in any of the prior art references taken individually or collectively. None of the references discloses compositions which contain one or more of the specifically claimed amino acids with one or more of the specifically claimed plant extracts. UMBDENSTOCK discloses glutamic acid together with Valerian root to treat tobacco craving and glutamic acid is one of the amino acids that Applicant employs. However, valerian root is not one of the Applicant's specified plant extracts nor is there any indication that Valerian root is in any way similar to the plant extracts specified in the claims now presented. Thus neither claim 14 nor any claim dependent thereon should be rejected as obvious in view of this reference.

GIAMPAPA discloses compositions that contain N-acetyl-cysteine. Applicant's amino acids include cysteine or cystine, but not acetyl-cysteine. Cystine is not the same as cysteine, but is actually a dimer thereof and there is no indication that Applicant's cysteine or cystine is acetylated. Thus the compositions disclosed in this reference contain different ingredients from those of present claim 14 and provide no basis to reject claim 14 as obvious under 35 USC 103.

Applicant has studied WUNDERLICH et al and has failed to find any specific amino acids that are included in the compositions. Nor is there any suggestion that such compositions may be used to help a patient to terminate the need to smoke tobacco. Thus

the reference provides no basis to reject any claim now presented as obvious under 35 USC 103.

In col. 6, line 1 LUCA mentions that vegetable fat may be one of the ingredients in the compositions but vegetable fat is not one of the plant extracts that Applicant specifies. Nor is vegetable fat similar to any of the plant extracts specifically covered in the claims now presented. The compositions are disclosed in col. 6, lines 38 through 47 as useful for providing essential nutrients for alcoholics, drug abusers, HIV patients, cancer patients, infants and geriatric patients and there is no specific mention or suggestion of administering such a composition to a smoker to help the individual refrain from using tobacco.

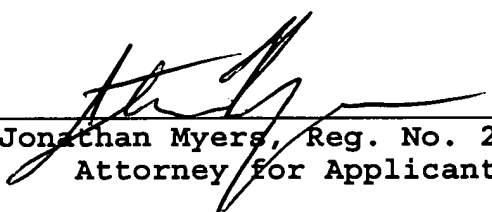
Applicant has added method of use claims 33 and 34 to obtain "use" protection. Only UMBDENSTOCK specifically discloses compositions administered to an individual to quit smoking and so the other three cited references directed to pharmaceutical compositions of a completely different use should not be applied against claims 33 and 34 under 35 USC 103. Since UMBDENSTOCK specifically discloses valerian root as the plant extract in the compositions disclosed therein and since valerian root is not similar to any of the plant extracts administered according to the method of treatment of claim 33 and 34, it is believed that these claims are patentably distinguishable over the cited prior art.

In the case of method of treatment claim 34 the composition administered to a patient to help the patient quit smoking must contain sorbitol. There is no suggestion in UMBDENSTOCK to

administer to a patient who wishes to quit smoking a composition that contains sorbitol. The only two references that disclose compositions containing sorbitol and cited by the Examiner are WUNDERLICH et al and LUCA and neither of these references relates to administering a composition to a patient to help the patient quit smoking. Thus claim 34 is especially believed to be patentable over the cited prior art.

Favorable action in this case is earnestly solicited. Applicant encloses authorization for payment of the fee for one extra claim in excess of twenty.

Respectfully submitted,
The Firm of Karl F. Ross P.C.



Jonathan Myers, Reg. No. 26,963
Attorney for Applicant

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5676 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: (718) 884-6600
Fax: (718) 601-1099